



6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 51, 52, 70, and 71

[EPA-HQ-OAR-2006-0089; FRL-10001-61-OAR]

#### **Prevention of Significant Deterioration, Nonattainment New Source Review, and Title V: Treatment of Corn Milling Facilities Under the “Major Emitting Facility” Definition; Reconsideration**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Partial grant and partial denial of a petition for reconsideration.

**SUMMARY:** On March 2, 2009, the Natural Resource Defense Council (NRDC) submitted a petition for reconsideration (the NRDC Petition) of the rule “Prevention of Significant Deterioration, Nonattainment New Source Review and Title V: Treatment of Certain Ethanol Production Facilities Under the ‘Major Emitting Facility’ Definition” (the Ethanol Rule), published in the **Federal Register** on May 1, 2007. The Ethanol Rule reinterpreted the component term “chemical process plants” within the statutory definition of “major emitting facility” and regulatory definitions of “major stationary source” under the Prevention of Significant Deterioration and Nonattainment New Source Review programs and “major source” under title V, to exclude all facilities that produce ethanol through a natural fermentation process. In response to the NRDC Petition, the Environmental Protection Agency (EPA) grants the request for reconsideration with regard to NRDC’s claim that the Ethanol Rule did not appropriately address the Clean Air Act (CAA) anti-backsliding requirements for nonattainment areas in the Ethanol Rule. Therefore, the EPA is convening a proceeding for reconsideration as provided for under the CAA. In the near future, the EPA will publish a document in the **Federal Register** establishing a comment period and opportunity for a hearing for this proceeding. With

regards to the other three claims raised in the NRDC Petition, the EPA denies the request for reconsideration. For these claims, NRDC has failed to establish that they meet the criteria for reconsideration under the CAA.

**DATES:** [INSERT DATE OF PUBLICATIO IN THE FEDERAL REGISTER].

**ADDRESSES:** Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Mail Code C504-03, Research Triangle Park, N.C. 27711,

**FOR FURTHER INFORMATION CONTACT:** Mr. Dylan Mataway-Novak, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Mail Code C504-03, Research Triangle Park, N.C. 27711, phone number (919) 541-5795 or by email at *mataway-novak.dylan@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

**I. Where can I get copies of this document and other related information?**

This **Federal Register** document, the petition for reconsideration, and the response letter to the petitioner are available in the docket that the EPA established for the Ethanol Rule under Docket ID NO. EPA-HQ-OAR-2006-0089. All documents in the docket are listed in the index at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in the docket or in hard copy at the Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW, Washington, D.C. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m. Monday through Friday, excluding legal holidays. The

telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Office of Air and Radiation Docket and Information Center is (202) 566-1742.

## **II. Judicial Review**

Section 307(b)(1) of the CAA indicates which Federal Courts of Appeal have venue for petitions of review of final actions by the EPA. This section provides, in part, that petitions for review must be filed in the Court of Appeals for the District of Columbia Circuit: (i) when the agency action consists of “nationally applicable regulations promulgated, or final actions taken, by the Administrator,” or (ii) when such action is locally or regionally applicable, if “such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination.” In the Ethanol Rule, the EPA determined that the action was of nationwide scope and effect for the purposes of CAA section 307(b)(1). *See* 72 FR 24060, 24077 (May 1, 2007).

The EPA has determined that its actions denying the petitions for reconsideration also are of nationwide scope and effect because these actions directly relate to the Ethanol Rule that the EPA previously determined are of nationwide scope and effect. Thus, any petitions for review of the final letters denying the petitions for reconsideration must be filed in the Court of Appeals for the District of Columbia Circuit on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

Dated: October 22, 2019.

Andrew R. Wheeler,  
Administrator.

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